

AMENDED IN ASSEMBLY JULY 11, 2011
AMENDED IN ASSEMBLY MARCH 23, 2011
AMENDED IN ASSEMBLY MARCH 17, 2011
AMENDED IN ASSEMBLY MARCH 14, 2011

SENATE BILL

No. 79

Introduced by Committee on Budget and Fiscal Review

January 10, 2011

~~An act to amend Sections 12009, 12201, 12204, 12207, 12242, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, 13108, 17276.1, 17276.20, 23101, 24416.1, 24416.20, and 25128 of, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.4, 17276.5, 17276.6, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.4, 24416.5, and 24416.6 of, to amend, repeal, and add Section 25136 of, to add Sections 17053.31 and 23611 to, to repeal Section 25128.5 of, and to repeal and add Sections 17276.22 and 24416.22 of, the Revenue and Taxation Code, to amend Sections 1661, 4601, 5902.5, and 9552 of the Vehicle Code, and to amend Section 14301.11 of the Welfare and Institutions Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, An act to add Section 16330 to the Government Code, relating to state finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Committee on Budget and Fiscal Review.
~~Taxation: personal income and corporation taxes; managed care plan taxes. State funds: State Agency Investment Fund.~~

(1) Existing law provides for the investment of certain state moneys by the Treasurer through the Pooled Money Investment Account, according to specified criteria.

This bill would create the State Agency Investment Fund in the State Treasury, for the receipt of deposits by state agencies of up to \$500,000,000 each, from moneys not required by law to be deposited in the Pooled Money Investment Account, for a total of \$10,000,000,000 in the fund at any one time. It would authorize the Director of Finance, in consultation with the Treasurer, to set certain terms and conditions for the deposits, and require the Treasurer to invest the moneys held in the fund through the Pooled Money Investment Account, according to specified criteria. It would continuously appropriate moneys in the fund to the Controller for the payment of interest expenditures and the return of deposits to depositors.

(2) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, subject to specified criteria.

This bill would exempt activities conducted by the Director of Finance, in consultation with the Treasurer, in implementing and administering the investment program provided for in the bill from the provisions of the act.

(3) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~(1) The Personal Income Tax Law and the Corporation Tax Law allow for various tax credits and deductions in computing the taxes imposed by those laws, relating to enterprise zones, targeted tax areas, local agency military base recovery areas, manufacturing enhancement areas, and net operating losses.~~

~~This bill would make these provisions inoperative for taxable years beginning on or after January 1, 2011, and would repeal these provisions as of December 1, 2011. This bill would also prevent carryovers for taxable years beginning on or after January 1, 2011, for specified provisions. This bill would delete obsolete references to conform to these changes.~~

~~(2) Existing law allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2008, provides a carryover period of 20 years and allows net operating losses attributable to taxable years beginning on or after January 1, 2011, to be carrybacks to each of the preceding 2 taxable years, as provided.~~

~~This bill would recalculate elected net operating loss carryovers available, under specified provisions that have been repealed by this bill, by applying the net operating loss rules applicable to the taxable year in which the net operating loss was incurred.~~

~~(3) The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. That law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to have that income apportioned in accordance with a single sales factor formula, except as provided, pursuant to an irrevocable annual election, as specified. That law also provides that sales of tangible and intangible personal property are in this state in accordance with specified criteria.~~

~~This bill would, for taxable years beginning on or after January 1, 2011, revise the rules which determine whether a taxpayer is doing business within this state, revise the provisions which determine whether specific sales occur in this state, and require a taxpayer, except as provided, to apportion income in accordance with a single sales factor.~~

~~(4) Existing law requires, until July 1, 2011, every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be signed by the insurer or the Medi-Cal managed care plan or an executive officer of the insurer or the plan and to be made under oath or contain a written declaration that is made under penalty of perjury.~~

~~This bill would, instead, require every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be made under oath or contain a written declaration that is made under penalty of perjury until January 1, 2014. By expanding the crime of perjury, this bill would impose a state-mandated local program.~~

~~(5) Existing law generally requires the vehicle license fee to be paid to the Department of Motor Vehicles at the time required for renewal or registration of the vehicle.~~

~~Existing law establishes fees for original and renewal registration of vehicles to be collected by the Department of Motor Vehicles. Existing law requires the department, with a specified exception, to notify the registered owner of each vehicle of the date that registration renewal fees for the vehicle are due, at least 60 days prior to that due date, and to indicate the fact that the required notice was mailed by a notation in the department's records.~~

~~This bill would, commencing on June 8, 2011, and operative until January 1, 2012, reduce the department's time period for notification that vehicle registration renewal fees are due to 30 days prior to the due date, thus requiring the vehicle license fee also to be due on that date.~~

~~(6) Existing law requires that the renewal of registration for a vehicle that is either currently registered or for which a specified certification is filed be obtained not more than 75 days prior to the expiration of the current registration or certification.~~

~~This bill would, commencing on June 8, 2011, and operative until July 1, 2011, instead apply the above-specified requirement only to the renewal of registration for any vehicle that expires on or before June 30, 2011, and would require the renewal of registration for a vehicle that expires on or after July 1, 2011, or for which a specified certification is filed, to be obtained not more than 15 days prior to the expiration of the current registration or certification, thus requiring the vehicle license fee also to be due on that date.~~

~~(7) Existing law requires that if an application for a registration transaction is filed with the Department of Motor Vehicles during the 30 days immediately preceding the date of expiration of registration of the vehicle, the application be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees that are due and payable.~~

~~This bill would, commencing on the date that this bill becomes operative and remaining operative until July 1, 2011, reduce the time~~

~~period to 10 days immediately preceding the date of expiration of registration of the vehicle, thus requiring the vehicle license fee also to be due on that date.~~

~~(8) Existing law provides that fees are delinquent if an application for renewal of registration, or an application for renewal of special license plates, is made after midnight of the expiration date of the registration or special plates, or 60 days after the date the registered owner is notified by the Department of Motor Vehicles, whichever is later.~~

~~This bill would, commencing on June 8, 2011, and operative until January 1, 2012, reduce the time period to 30 days after the date the registered owner is notified by the department, thus requiring the vehicle license fee also to be due on that date.~~

~~(9) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing law imposes various taxes, including a tax at a specified rate on the gross premiums of an insurer, as defined, and, until July 1, 2011, on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. Existing law continuously appropriates the revenues derived from the tax on Medi-Cal managed care plans for specified purposes.~~

~~This bill would extend the imposition of the tax on the total operating revenue of Medi-Cal managed care plans until January 1, 2014, and make other conforming changes. By extending the imposition of a tax whose revenues are continuously appropriated, this bill would make an appropriation.~~

~~(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(11) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January~~

~~20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.~~

~~This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.~~

~~(12) This bill would declare that it is to take immediate effect as an urgency statute and a bill providing for appropriations related to the Budget Bill.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 16330 is added to the Government Code,*
2 *to read:*

3 16330. (a) (1) *The State Agency Investment Fund is hereby*
4 *created within the State Treasury, for the receipt of deposits from*
5 *state agencies with moneys not currently required by law to be*
6 *deposited in the Pooled Money Investment Account.*

7 (2) *For purposes of this section, a “state agency” includes any*
8 *state office, officer, department, division, bureau, board,*
9 *commission, organization, or agency, including, but not limited*
10 *to, the University of California, the California State University,*
11 *the California Community Colleges, and the Judicial Council.*

12 (b) *Each agency that deposits moneys in the fund shall deposit*
13 *no less than a total of five hundred million dollars (\$500,000,000).*
14 *The total amount of moneys that may be deposited in the fund from*
15 *all eligible sources shall not exceed, at any point in time, a total*
16 *of ten billion dollars (\$10,000,000,000), or a lesser amount as*
17 *determined by the Director of Finance, in consultation with the*
18 *Treasurer.*

19 (c) *The terms and conditions of deposits made into the fund*
20 *shall be set by the Director of Finance, in consultation with the*
21 *Treasurer. Those terms shall include, but not be limited to, the*
22 *size of deposit from a particular state agency, the length of time*
23 *those moneys shall be held in deposit in the fund, the availability*
24 *of funds for withdrawal by the state agency depositing the funds,*
25 *and the annual rate of interest paid on deposits, as described in*
26 *subdivision (e).*

1 (d) Moneys held in the fund shall be invested by the Treasurer
2 in investments authorized by Sections 16430 and 16480 through
3 the Pooled Money Investment Account, and notwithstanding any
4 other law, shall be deemed borrowable by the General Fund for
5 cashflow purposes pursuant to Sections 16310 and 16381.
6 Repayment of any of those borrowings shall be considered a
7 priority payment, equivalent to any other loan repayment made
8 from the General Fund to another state fund.

9 (e) Notwithstanding any other law, the rate of interest to be
10 paid to the depositors shall be the base apportionment rate based
11 on their pro rata share of the earnings of the Pooled Money
12 Investment Account on a quarterly basis at the end of each quarter
13 plus an enhanced amount. The pro rata share shall be determined
14 by a dollar day participation. The base apportionment rate applied
15 to the dollar day participation in the fund shall be the
16 quarter-to-date average yield of the Pooled Money Investment
17 Account for the current quarter. The enhancement amount paid
18 to depositors in the fund shall be determined by the Director of
19 Finance, in consultation with the Treasurer, and shall be added
20 to the base rate earned by the Pooled Money Investment Account
21 at the time the apportionment is made. The total interest cost
22 described in this subdivision shall not exceed that provided for in
23 paragraph (1) of subdivision (d) of Section 16731.

24 (f) Notwithstanding Section 13340, moneys in the fund are
25 hereby continuously appropriated to the Controller for payment
26 of interest expenditures to depositors calculated in accordance
27 with subdivision (e), and return of deposits to depositors according
28 to terms and conditions set by the Director of Finance, in
29 consultation with the Treasurer.

30 (g) The Department of Finance shall determine the budget items
31 to be used for the recording and reporting of interest expenditures
32 pursuant to this section.

33 (h) Deposits in the fund shall be tracked separately for each
34 participant in the state's accounting system, and shall be deemed
35 to be assets of each participant. These assets shall be reflected as
36 such on the participants' financial statements.

37 (i) Actions by the Director of Finance, in consultation with the
38 Treasurer, in implementing and administering the investment
39 program provided for in this section shall be exempt from the

1 *provisions of the Administrative Procedure Act (Chapter 3.5*
2 *(commencing with Section 11340) of Part 1 of Division 3).*

3 *SEC. 2. This act is a bill providing for appropriations related*
4 *to the Budget Bill within the meaning of subdivision (e) of Section*
5 *12 of Article IV of the California Constitution, has been identified*
6 *as related to the budget in the Budget Bill, and shall take effect*
7 *immediately.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, March 23, 2011. (JR11)**